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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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09/863,254

05/24/2001

Hiroyasu Shino

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EXAMINER

FADOK, MARK A

ART UNIT

PAPER NUMBER

3625

MAIL DATE

DELIVERY MODE

10/02/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/863,254

Applicant(s)

SHINO ET AL.

Examiner

Mark Fadok

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5,7,9,11,12,14 and 16-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,7,9,11,12,14 and 16-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

ETAILED ACTION

Response to Amendment

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/9/2007 has been entered.

The examiner is in receipt of applicant's response to office action mailed 2/6/2007, which was received 7/9/2007. Acknowledgement is made to the amendment to claims 1,3,5,7,9,11,12,14,16,17 and 18, the cancellation of claims 2,4,6,8,10,13 and 15, leaving claims 1,3,5,7,9,11,12,14,16-19 as pending in the instant application. The amendment has obviated the previous USC 112 rejection, however, the amendment and remarks were not persuasive, therefore, the previous rejection modified as necessitated by amendment follows:

Examiner's Note

Examiner has cited particular columns and line numbers or figures in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to

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fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,3,5,7,9,11,12,14,16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swartz (US 7,040,541) in view of Ho, Nobbe, Schulz, Allard, Ryall and Buckingham (See copies provided in PTO 892).

In regards to claims 1,3,5,7,9,11,12,14,16-19, Swartz teaches selecting and ordering items from a remote location (col 2, lines 15-42). The ordering involving receiving recipe information and making selections from the information provided (col 17, lines 15-30). Swartz further teaches receiving graphical representations of the stores products and enhanced video capabilities along with a means for designating the location of the product within the store (col 11, 55-65). Swartz, however, does not specifically mention that the graphical/video is being feed by a remote robot or that the product is being manipulated by the robot in the store. Ho, Nobbe, Schultz, Allard, Ryall and Buckingham, teach all the robotic means of the instant invention. For instance, Ho teaches controlling a robots movements over the internet, Nobbe teaches mechanical

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arms of a robot capable of manipulating objects, Schulz teaches controlling a robot in a 3d environment and image screens providing real-time video of the movements of the Robot, Ryall teaches a robot moving about a store purchasing items that are ordered from a remote customer and Buckingham teaches a robot handling non ridged products such as fish. It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Swartz, robotic means to assist the purchaser in selecting product, since it has been well established in movies, television and the written arts that robots can accomplish the tasks of applicant's robot in the instant claims, and since these tasks unite capabilities that were old with no change in their respective functions and which lead to predictable results the subject matter likely would have been obvious under KSR, 127 S. Ct. at 1741, 82 USPQ2d at 1396. Further it would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Swartz the robotic tasks outlined in the instant invention, because as seen in movies such as "Lost in Space", cartoons such as the "Jetsons" and real life robots such as the Mars Rover, it is convenient to have a robot accomplish remote tasks since this saves the individual time by not having to visit the remote site themselves.

Response to Arguments

Applicant's arguments with respect to claims 1,3,5,7,9,11,12,14,16-19 have been considered but are moot in view of the new ground(s) of rejection necessitated by amendment.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **571.272.6755**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Jeffrey A. Smith** can be reached on **571.272.6763**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450
or faxed to:

571-273-8300 [Official communications; including
After Final communications labeled
"Box AF"]

For general questions the receptionist can be reached at

571.272.3600

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Mark Fadok', with a long horizontal stroke extending to the right.

Mark Fadok

Primary Examiner